

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-9349-2022 (O&M)

Date of order: 06.10.2023

Nirmala Devi & Another

.....Petitioner(s)

Vs.

State of Punjab & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Manoj K. Sharma, Advocate
for the petitioners.

Mr. Kunwarbir Singh, AAG Punjab.

Mr. Ritesh Kumar, Advocate
for respondent No.2.

Nidhi Gupta, J.

The prayer in this petition is for quashing of FIR No.18 dated 16.02.2019 (Annexure P-1) under Sections 406, 498-A and 120-B IPC registered at Police Station Goraya, District Jalandhar and all subsequent proceedings arising therefrom on the basis of compromise dated 02.02.2022 (Annexure P-2) arrived at between the parties; and order dated 07.09.2019 passed by learned Sub-Divisional Judicial Magistrate, Phillaur, District Jalandhar vide which petitioner No.2 has been declared as proclaimed person (Annexure P4).

Vide order dated 17.03.2022, Co-ordinate Bench of this Court while observing that petitioner No.2 was declared as proclaimed person vide order dated 07.09.2019 (Annexure P4), had directed the parties to appear before Illaqa Magistrate for getting their statements recorded in

terms of certain parameters given in the aforesaid order dated 17.03.2022 with regard to the compromise dated 02.02.2022 (Annexure P-2).

In terms of the order dated 17.03.2022 passed by this Court parties have appeared before the Court of learned Judicial Magistrate, 1st Class, Phillaur and as per his report dated 20.05.2022 submitted to this Court, both the parties have got recorded their respective statements in Court.

A perusal of the above said report would show that the petitioners and respondent No.2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned State Counsel has stated that he has no objection in case the FIR is quashed on the basis of compromise qua the petitioners.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

This Court has heard the learned counsel for the parties and has perused the file and observed that out of a total of three accused, only two have approached this Court seeking quashing of FIR on the basis of compromise. The Hon'ble Supreme Court in ***Jayrajsinh Digvijaysinh Rana Versus State of Gujarat and another, 2012(4) R.C.R. (Criminal) 589,*** has held that partial quashing of the FIR is permissible on the basis of compromise.

Partial quashing or part quashing of FIR only qua the petitioner(s)/accused with whom the complainant(s) has/have compromised or settled the matter can be allowed and while quashing, it must be appreciated that the petitioner(s)/accused cannot be allowed to suffer based on a complaint filed by the respondent(s), when subsequently, all disputes have been settled between the parties. Reliance can be placed upon ***“Poonam Khanna vs. State & Ors” in Crl.M.C.No. 3690/2016 Dated 30.01.2018.***

After perusing the report submitted by the Illaqa Magistrate, this Court finds that the matter has been amicably settled between the petitioners and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052***, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of ***“Gian Singh Vs. State of Punjab and another”, 2012 (4) RCR (Criminal) 543***, had also observed that in order to secure the ends of justice or to prevent the abuse of

process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.”

In view of what has been discussed hereinabove, this petition is **allowed** and FIR No.18 dated 16.02.2019 (Annexure **P-1**) under Sections 406, 498-A and 120-B IPC registered at Police Station Goraya, District Jalandhar and all subsequent proceedings arising therefrom on the basis of compromise dated 02.02.2022 (Annexure P-2) arrived at between the parties and order dated 07.09.2019 passed by learned Sub-Divisional Judicial Magistrate, Phillaur, District Jalandhar vide which petitioner No.2 has been declared as proclaimed person (Annexure P4), are ordered to be quashed qua the petitioners.

Petition stands disposed of.

Pending application(s) if any also stand(s) disposed of.

06.10.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No